

MONTANA LEGISLATIVE HISTORY

Chapter 642 19 79

Bill H 366 S _____ Original bill & history ✓ c

H. Committee on Local Government

Hearing Date(s) Feb 03 ✓ c

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_____ c

Date Out Feb 03 ✓ c

S. Committee on Local Government

Hearing Date(s) Mar 12 ✓ c

Mar 21 ✓ c

_____ c

_____ c

Mar 21 ✓ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

CHAPTER NO. 642

HOUSE BILL NO. 366

INTRODUCED BY KESSLER, FAGG, AZZARA, DOZIER, KEMMIS

IN THE HOUSE

January 24, 1979	Introduced and referred to Committee on Local Government.
February 5, 1979	Committee recommend bill do pass as amended. Report adopted.
February 6, 1979	Printed and placed on members' desks.
February 7, 1979	On motion, taken from second reading and referred to printing.
February 8, 1979	On motion, taken from printing and referred to second reading on the 33rd Legislative Day.
February 9, 1979	Second reading, pass consideration.
February 12, 1979	Second reading, do pass as amended.
February 13, 1979	Correctly engrossed.
February 14, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 15, 1979	Introduced and referred to Committee on Local Government.
March 23, 1979	Committee recommend bill be concurred in. Report adopted.
March 24, 1979	Second reading, concurred in.
March 27, 1979	Third reading, concurred in.

IN THE HOUSE

March 28, 1979	Returned from second house. Concurred in. Sent to enrolling.
April 2, 1979	Correctly enrolled. Signed by Speaker.
April 3, 1979	Signed by President.
April 4, 1979	Delivered to Governor.
April 9, 1979	Returned from Governor with recommended amendments.
April 11, 1979	On motion, Governor's amend- ments placed on second reading for the 84th Legislative Day.
April 12, 1979	Second reading, amendments adopted.
April 13, 1979	Third reading, amendments adopted. Transmitted to second house.

IN THE SENATE

April 13, 1979	Governor's recommendation for amendments submitted to the Senate.
April 16, 1979	Committee of the Whole recom- mend Senate adopt Governor's amendments.
April 17, 1979	On third reading. Governor's amendments adopted. Trans- mitted to House.

IN THE HOUSE

April 18, 1979	Returned from second house. Sent to enrolling. Reported correctly enrolled.
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1 House BILL NO. 366
2 INTRODUCED BY Kaul - FARR - Azzard - Dyer - Kamin
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO STREAMLINE THE
5 VARIOUS METHODS OF ANNEXATION; REMOVING THE RESTRICTION ON
6 ANNEXATION OF FIRE DISTRICTS; ESTABLISHING THAT EACH
7 ANNEXATION METHOD IS SEPARATE AND DISTINCT; AND AMENDING
8 SECTIONS 7-2-4718 AND 7-2-4734, MCA."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 7-2-4718, MCA, is amended to read:

12 "7-2-4718. Construction. ~~(1) Insofar as the provisions~~
13 ~~of this part are inconsistent with the provisions of any~~
14 ~~other law, the provisions of this part shall be controlling.~~

15 ~~(2) The method of annexation authorized in this part~~
16 ~~shall be construed as supplemental to and is independent~~
17 ~~from other methods of annexation authorized by state law."~~

18 Section 2. Section 7-2-4734, MCA, is amended to read:

19 "7-2-4734. Standards to be met before annexation can
20 occur. A municipal governing body may extend the municipal
21 corporate limits to include any area which meets the
22 following standards:

23 (1) It must be contiguous to the municipality's
24 boundaries at the time the annexation proceeding is begun.

25 (2) No part of the area may be included within the

1 boundary of another incorporated municipality.

2 (3) It must be included within and the proposed
3 annexation must conform to a comprehensive plan as
4 prescribed in Title 76, chapter 1.

5 ~~(4) No part of the area may be included within the~~
6 ~~boundary, as existing at the inception of such attempted~~
7 ~~annexation, of any fire district organized under any of the~~
8 ~~provisions of part 21, chapter 33, if the fire district was~~
9 ~~originally organized at least 10 years prior to the~~
10 ~~inception of such attempted annexation. However, a~~
11 ~~single ownership piece of land may be transferred from a~~
12 ~~fire district to a municipality by annexation as provided in~~
13 ~~7-33-2127."~~

14 Section 3. Applicability of part. When the proceedings
15 for annexation of territory to a municipality are instituted
16 as provided in this part, the provisions of this part and no
17 other apply, except where otherwise explicitly indicated.

18 Section 4. Codification. Section 3 is intended to be
19 codified as three separate sections, each of which is to be
20 an integral part of parts 42, 43, and 44 respectively, of
21 Title 7, chapter 2; and the provisions contained in Title 7,
22 chapter 2, parts 42, 43, or 44 apply respectively to section
23 3 as so codified.

-End-

HB 388 (cont.)

Rep. Kemmis then gave closing remarks stating that Missoula was not the only city having this problem and that residents are asking the city fire departments for protection from hazards that are not within the city limits and this doesn't make sense. There is no tax base for the protection and this would give relief to the cities. There were then questions from committee members. Rep. Gould inquired as to whether this would force some industries to close down, or whether there could be some provision to require them to pay for the services used and fire protection. Other members inquired if it was felt the city would annex any property if it couldn't afford to keep up the services. Chairman Robbins then stated the committee could consider the proposed amendments and continue discussion in the executive session. Hearing was then closed on HB 388.

It was then requested that HB 381 and HB 423 be considered on the same day.

HOUSE BILL 365: Representative Kessler introduced the bill, stating that it would allow annexation when signed by more than 50% of the freeholders in an area and would eliminate the cost of election in these cases.

Chairman Robbins called for proponents. Art Korn of the Volunteer Firemen's Association stated they were in favor, Art Stanfield also voiced his support. Dan Mizner of the League of Cities stated this had been requested in many towns and they couldn't use the law because of the limit of 20,000 population and they were in support. Dean Holmes, Mayor of Miles City also stated they were in support. It was also supported by Eva Spaulding of the League of Women Voters. Don Stinger representing the country life group in Missoula spoke in favor, stating that having 51% or more would be fair. There were no opponents.

Rep. Moore then offered an amendment, changing line 13 to read "more than 50% and moved the amendment. All voted "aye". Same amendment was made on line 22 and all voted "aye". Hearing was then closed on HB 365.

HOUSE BILL 366: Representative Kessler introduced the bill relating to annexation of fire districts. He stated he had an amendment to page 2, sec. 4, lines 5 through 13, which would read that this portion be reinstated. It was moved by Rep. Kessler that this amendment be passed, vote was called and all voted "aye" on the amendment.

Rep. Kessler then further stated that page 1, section 1 would allow each annexation procedure to be set up independently of one another, with no one type having precedence over the four types of annexation.

Chairman Robbins then called for proponents.

HB 366 (cont.)

Mr. Ellingson of Missoula stated he didn't feel the legislature knew what they were doing in 1973 on the planned community development act, in that it would supersede the other three types of annexation and this would be a remedy to that. He believed the planned community development act should not apply at all. He requested HB 366 be passed.

Eva Spaulding of the League of Women Voters stated that under their stand of promoting orderly growth they would like to support HB 366.

Ken Haag of Billings was in support and his statement is attached.

Mr. Thelen, City Manager of Helena stated that because of the amendment he didn't think the bill would do much good. He would like to see an amendment that says they can stay in a rural fire district as long as they want to serve, and then annexation could be done under other provisions.

Dan Mizner of the League of Cities stated the bill is needed, and if the fire district is the only problem, they should have their portion and the remainder of the bill pass.

Art Korn of the Mont. Volunteer Firemen's Assoc. stated he was interested in giving the residents a vote in whether or how they are annexed and was in favor.

Rep. Kessler then stated he thought the title also had to be amended, lines 5 and 6, striking "removing the restriction on annexation of fire districts", and on line 8 to strike the words "Sec. 7-2-4734". He then stated on page 1, there is no purpose for Sec. 2 and we should delete the entire Sec. 2, line 18, page 1, through line 13, on page 2. Rep. Moore stated this would cut the entire sec. 2 in the singular. Rep. Waldron then suggested just to reinsert the language and amend line 8. Rep. Moore inquired as to what the bill was now intended to do. Rep. Kessler stated it would allow separate laws in the book to operate separately and independently from one another. Rep. Moore then moved the amendment and amending the title. Vote was called and all voted "aye".

Hearing was then closed on HB 366.

The committee then went into Executive Session.

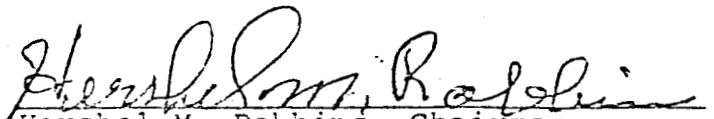
HOUSE BILL 365: It was moved by Rep. Waldron that HB 365 do pass as amended. Rep. Moore noted one more amendment on Line 13 and line 22, to read "more than 50%". Vote was called on the amendment and all voted "aye". It was then moved by Rep. Waldron that HB 365 do pass as amended, vote was called and all voted "aye" that HB 365 do pass as amended.

Feb. 3, 1979

HOUSE BILL 366: It was moved by Rep. Kessler that HB 366 do pass as amended. Vote was called and all voted "aye" that HB 366 do pass as amended.

It was then moved by Rep. Kessler that the committee reconsider the action taken on the previous day on HB 274, for the purpose of inserting another amendment. He then proposed amendment on page 2, line 4, to strike "as of July 1, 1979" and insert "after July 1, 1979". He hoped this amendment would eliminate some of the opposition. The people that are now on services would not be affected. Rep. Gould stated he would support the motion if it read Water and sewer rather than "or". Rep. Moore stated he didn't think it proper to bring the bill back this way because some of the committee members were not here. Rep. South then stated he was in favor of the motion and he supported the motion to reconsider. Vote was called on the motion to reconsider, 8 voting yes, 5 absent, 4 no. Motion carried. Rep. Moore moved that the committee do not take further action today. It was suggested further action be taken next week. Vote was called and all voted "aye".

There being no further business the meeting was then duly adjourned at 2:30 pm.


Hershel M. Robbins, Chairman
LOCAL GOVERNMENT COMMITTEE


Patricia A. Hatfield
Committee Secretary

Fire Association, stated their support of the bill.

There were no opponents to the bill. Representative Kessler made the closing remarks. He stated that this bill would allow for orderly growth and that is very necessary.

The meeting was opened to a question and answer period from the Committee. Discussion was held.

CONSIDERATION OF HOUSE BILL 366: Representative Gerald Kessler of District 66, chief sponsor of HB 366, gave a brief resume. This bill is an act to streamline the various methods of annexation; establishing that each annexation method is separate and distinct. Representative Kessler stated that there are five methods of annexation. This bill makes each of the procedures operate independently of one another. Some statutes are in conflict with one another. This would clear up the procedures.

Mae Nan Ellingson, representing the City of Missoula, stood in support of the bill. She stated that the Planned Community Development Act came about in 1974. Most of the annexed Missoula area is being done by the individual property owner on an individual basis. House Bill 366 would clarify and make each method of annexation separate and would make the rural fire district exclusion only applicable on the one method of annexation.

Dan Mizner, of the League of Cities and Towns, stated his support of the bill. He stated that House Bill 365 and 366 are both needed together.

Eva Spaulding, representing the League of Women Voters, stated her support of HB 366.

Dave Fischer and Art Korn, of the Montana State Volunteer Firemen's Association, both stood in support of the bill.

There were no opponents present.

The meeting was opened to a question and answer period from the Committee. Discussion was held.

DISPOSITION OF HOUSE BILL 687: This bill is in regard to the county contribution for a veteran's gravestone from \$20 to \$30.

A motion was made by Senator Thomas that House Bill 687 "BE CONCURRED IN". Motion carried unanimously.

DISPOSITION OF HOUSE BILL 442: This bill is in regard to increasing the maximum salaries of district court reporters.

Senator O'Hara suggested that perhaps this bill could be amended instead of passing it out of Committee in the situation it is in right now.

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
GEORGE MCCALLUM, CHAIRMAN	✓		
LLOYD LOCKREN, VICE CHAIRMAN	✓		
MAX CONOVER	✓		
JESSE A. O'HARA	✓		
BOB PETERSON	✓		
A. T. (TOM) RASMUSSEN	✓		
PETE STORY			✓
BILL THOMAS	✓		
ROBERT D. WATT			✓

Each Day Attach to Minutes.

COMMITTEE

VISITORS' REGISTER

DATE 3/7/

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME: Mr. Newell DATE: 3-17-71

ADDRESS: 201 N. 1st St.

PHONE: 721-4200

REPRESENTING WHOM? City of Merced

APPEARING ON WHICH PROPOSAL: 366

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Will you call testimony

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Al Sampson

DATE: 3-17-79

SS: 828 Roll- Miss.

: SH 721-2291

SENTING WHOM? City of Miss. + Nat St Fire Assoc.

RING ON WHICH PROPOSAL: HB 366

U: SUPPORT? X AMEND? OPPOSE?

ENTS: This would clarify and make
each method of annexation separate
and thus would make the Rural
Line Dist exclusion only applicable
to the one method of annexation

NAME: Leon J. Stanford DATE: 3/17/78

ADDRESS: 2501 North Ave

PHONE: 549-6172

REPRESENTING WHOM? Miranda Rios (For Test)

HEARING ON WHICH PROPOSAL: HB 365 H.A. 315

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

REMARKS: _____

NAME:

Sam A. Wozniak

DATE:

3-17-79

ADDRESS:

Helen

PHONE:

442-8769

REPRESENTING WHOM?

Westchester Towers

APPEARING ON WHICH PROPOSAL:

HB. 365-366

DO YOU: SUPPORT?

☒

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Frank Miller DATE: 3/17/49

ADDRESS: 1908 A Washington St. Bt. Martin

PHONE: 791 - 8855

REPRESENTING WHOM? Montana Vol. Firemen Assoc.

APPEARING ON WHICH PROPOSAL: H B 365 H B 366

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

A motion was made by Senator Story to amend the bill with regards to city-county consolidation. (See attached Committee report #3.) Motion was carried with everyone voting "yes" except Senator Rasmussen who abstained and Senator Lockrem who voted "no".

A motion was made by Senator Watt that House Bill 851 BE CONCURRED IN, as amended.

Senator O'Hara asked if this bill was really needed. David Hunter, representing the City of Helena, stated that a number of local governments want to put their current form of government up to a vote of the people and this bill would take care of the problem.

Senator McCallum stated that according to the constitution, every ten years it must be voted on for an alternate form of government. This would allow counties to initiate a change of government without waiting for the ten years.

Senator Watt stated he feels that it is good for the people to have a choice.

Senator Peterson stated he like the idea of having to wait for three years.

A vote was taken on Senator Watt's motion to concur with the House on this bill. Motion carried.

DISPOSITION OF HOUSE BILL 365: This bill deals with annexation and elections.

A motion was made by Senator Thomas that House Bill 365 BE CONCURRED IN.

A motion was made by Senator Lockrem to amend the bill on page 1, lines 14 and 24, to change the "more than" to "or more". Motion carried.

A motion was made by Senator Watt that House Bill 365 BE CONCURRED IN, as amended. Motion carried. (See attachment.)

DISCUSSION ON HOUSE BILL 366: This bill is in regards to streamlining annexation methods.

There are four distinct procedures for annexation. This bill amends the Planned Community Development Act of 1974. Discussion was held regarding the problem facing Missoula concerning annexation.

A motion was made by Senator Watt that the bill BE CONCURRED IN.

LOCA GOVERNMENT COMMITTEE
PAGE THREE
MARCH 21, 1979

Senator Lockrem stated that he would like to take out Section 2 of the bill.

Senator Lockrem moved to strike page 2, lines 14-24. He then withdrew his motion.

A substitute motion was made by Senator Lockrem to pass consideration and defer action on this bill for a day or two. Motion carried.

DISPOSITION OF HOUSE BILL 801: This bill increases the limit of indebtedness or liability for a county.

A motion was made by Senator Lockrem that the bill BE NOT CONCURRED IN.

This bill make it so the counties can spend more money without a vote of the people.

A vote was taken on Senator Lockrem's motion. Motion carried with all member voting "yes", except Senators Thomas and O'Hara.

DISCUSSION ON HOUSE BILL 382: This bill allows private fire protection companies to continue to provide fire protection services to an area that has been annexed or incorporated.

Mr. O'Leary, representing the O'Donnell Fire Service of Billings, stated that he opposed the proposed amendements. They are not necessary.

Ray Blehm, represting the Billings Fire Department, stated that the main problem with the bill is the option to purchase the equipment. There is no way cities can buy out the businesses. He asked the Committee to amend the bill to require that the cities would get something in return. There is no way, at present to finance the services. Mr. Blehm asked the Committee to put the proposed amendements into the bill. He then explained the amendements.

ADJOURN: The meeting adjourned at 1:50. The next meeting will be held on Thursday, March 22, at 12 Noon to consider House Bills 879 and 81.


CHAIRMAN, George McCallum

HOUSE BILL NO. 366

INTRODUCED BY KESSLER, FAGG, AZARA, DOZIER, KEMMIS

A BILL FOR AN ACT ENTITLED: "AN ACT TO STREAMLINE THE VARIOUS METHODS OF ANNEXATION; REMOVING THE RESTRICTION ON ANNEXATION OF FIRE DISTRICTS; ESTABLISHING THAT EACH ANNEXATION METHOD IS SEPARATE AND DISTINCT; AND AMENDING SECTIONS SECTION 7-2-4718 AND 7-2-4734, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-2-4718, MCA, is amended to read:

"7-2-4718. Construction. ~~(1) Insofar as the provisions of this part are inconsistent with the provisions of any other law the provisions of this part shall be controlling.~~

~~(2) The method of annexation authorized in this part shall be construed as supplemental to and is independent from other methods of annexation authorized by state law."~~

Section 2. ~~Section 7-2-4734, MCA, is amended to read:~~

~~"7-2-4734. Standards to be met before annexation can occur. A municipal governing body may extend the municipal corporate limits to include any area which meets the following standards:~~

~~(1) It must be contiguous to the municipality's boundaries at the time the annexation proceeding is begun.~~

~~(2) No part of the area may be included within the~~

~~boundary of another incorporated municipality.~~

~~(3) It must be included within and the proposed annexation must conform to a comprehensive plan as prescribed in Title 76, chapter 1.~~

~~(4) No part of the area may be included within the boundary as existing at the inception of such attempted annexation of any fire district organized under any of the provisions of part 21, chapter 33, if the fire district was originally organized at least 10 years prior to the inception of such attempted annexation. However, a single ownership piece of land may be transferred from a fire district to a municipality by annexation as provided in 7-33-2127."~~

SECTION 2. THERE IS A NEW MCA SECTION THAT READS:

Provision of services. In all cases of annexation under current Montana law, services will be provided as specified in Title 7, chapter 2, part 47, except where mutually agreed upon by the municipality and the freeholders of the area to be annexed.

Section 3. Applicability of part. When the proceedings for annexation of territory to a municipality are instituted as provided in this part, the provisions of this part and no other apply, except where otherwise explicitly indicated.

Section 4. Codification. Section 3 ~~2~~ 3 is intended to be codified as three FIVE separate sections, each of which

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1 is to be an integral part of parts 42, 43, and ~~44, 45, AND~~
2 ~~46~~ respectively, of Title 7, chapter 2; and the provisions
3 contained in Title 7, chapter 2, parts 42, 43, or ~~44, 45, OR~~
4 ~~46~~ apply respectively to section 3 2 3 as so codified.

-End-